Case 4:08-cv-03830-CW Document	1 Filed 06/30/2008 Page 1 of 16
PRISON IDENTIFICATION/BOOKING NO. C.U.S.P. A2 – 116 UP ADDRESS OR PLACE OF CONFINEMENT Box 23 49 Rit is your responsibility to notify the Clerk of Court in writing of any change of address. If represented by an attorney, provide his name, address, telephone and facsimile numbers, and e-mail address.	CLERK, U.S. DISTRICT COURT CENTRAL DIST, OF CALIF. LOS ANGELES LOS ANGELES LOS AGELES
UNITED STATES I	DISTRICT COURT
CENTRAL DISTRIC	
FULL NAME (Include name under which you were convicted) Petitioner,	CASE NUMBER: CV - 08 - 43 25 - R (RNB) To be supplied by the Clerk of the United States District Court
v.	AMENDED
Tohu F. Salazay. C. V. S. P. Wayden NAME OF WARDEN, SUPERINTENDENT, JAILOR OR AUTHORIZED PERSON HAVING CUSTODY OF PETITIONER Respondent.	PETITION FOR WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY 28 U.S.C. § 2254 PLACE/COUNTY OF CONVICTION Humbald County PREVIOUSLY FILED, RELATED CASES IN THIS DISTRICT COURT (List by case number) CV CV070874 CV CR05 48 79 S
 To use this form, you must be a person who either is curre state court, or will be serving a sentence in the future under a judgr from the conviction and/or the sentence. This form is your petition In this petition, you may challenge the judgment entered by entered by a different California state court, you must file a separar Make sure the form is typed or neatly handwritten. You a material fact, you may be prosecuted for perjury. Answer all the questions. You do not need to cite case law in support of each ground. You may submit additional pages if ne submit additional or correct information. If you want to submit a long to you must include in this petition all the grounds for relief state the facts that support each ground. If you fail to set forth all the grounds at a later date. You must pay a fee of \$5.00. If the fee is paid, your petit 	the petition. The petition is the form. If you make a false statement of the w, but you do need to state the federal legal theory and operative facts cessary. If you do not fill out the form properly, you will be asked to regal brief or arguments, you may attach a separate memorandum. From the conviction and/or sentence that you challenge. And you must regrounds in this petition, you may be barred from presenting additional tion will be filed. If you cannot afford the fee, you may ask to proceed and sign the declaration of the last two pages of the form. Also, you received the second to the second to the securities on deposit to you needs \$25.00, you must pay the filing fee.
PHITITION FOR WRIT OF HABEAS CORPUS BE CENTRAY DISTRICT OF CALIFORNIA DEPUTY	Y A PERSON IN STATE CUSTODY (28 U.S.C § 2254) Page 1 of 1

PLEASE COMPLETE THE FOLLOWING: (Check appropriate numbe	r)
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Thi		ition concerns:		
2.	☐ a conviction and/or sentence. ☐ prison discipline.			
3.		parole problem.		
4.		other.		
		PETITION		
1.	Ver	Place of detention Chucko valla. U.S.R. A2-116 UP Box 2349 Blythe M.92		
	a.	Place of detention Chocke Valla. V. S. R. HE COUNTY OF CALIFORNIA		
	b.	Place of conviction and sentence Humbolot county Superior court of california 825 Fifth St. Eureka. CA 95501-1153		
		•		
2.	Cor	nviction on which the petition is based (a separate petition must be filed for each conviction being attacked).		
	a.	Nature of offenses involved (include all counts): two counts of 708		
		and two strikes		
	b.	Penal or other code section or sections: (Cal Rules of court, rule 30 (b) (4) (B) (d).)		
		AD 2 - 147AC		
	c.	Case number: <u>CROSH879S</u> Date of conviction: May 2006		
	d.			
	e.	Date of sentence: June 2, 2006		
	f.	Length of sentence on each count: 2 years minimum sentence on I count.		
		grears endhandsed therm on one count.		
	g.	Plea (check one):		
		□ Not guilty		
		Z Guilty		
		☐ Nolo contendere		
	h.	Kind of trial (check one):		
		□ Jury		
		☑ Judge only		
3	. D	id you appeal to the California Court of Appeal from the judgment of conviction?		
	If	so, give the following information for your appeal (and attach a copy of the Court of Appeal decision if available):		
	a.	$\mathcal{D}_{\text{NN}} = \mathcal{D}_{\text{NN}} + \mathcal{D}$		
	b.	Grounds raised (list each):		
		(1) Court Vailated prisoner Legal Rights by inposing and endhansed therm.		

	c.	(2) Improper Asistance of counsil (3) Tudge Deniaid defendant Reavest of Reapointment of Attorney. (4) the fact is that agains at Lighton their statements & againstations. (5) Atsentensing Judge base on priving Crimes that defendants ben a suspect with Action of the decision: [6] Date of decision: [Result Denied]
	dec	ou did appeal, did you also file a Petition for Review with the California Supreme Court of the Court of Appeal ision? Yes \(\sigma\) No give the following information (and attach copies of the Petition for Review and the Supreme Court ruling if available): Case number:
	b. с. d.	Grounds raised (list each): (1)
5.	If y	you did not appeal: State your reasons
	b.	Did you seek permission to file a late appeal? ☐ Yes ☐ No
6.	If	ave you previously filed any habeas petitions in any state court with respect to this judgment of conviction? Yes No so, give the following information for each such petition (use additional pages if necessary, and attach copies of the petitions and the lings on the petitions if available):

a.	(1) Name of	court: HumBoldt county superior court of california.
 ;	(A) C	whor: (1/1) 7 () 8 † H
	(3) Date file	d (or if mailed, the date the petition was turned over to the prison authorities for mailing): Tune / 2006
	(4) Grounds	raised (list each):
	(a)	Ineficient asistance of counsil
		a la la la la mont engenpint Length of Senten
		The Property To the Advance of the Control of the C
	(đ)	The Part is that A Agrice and LIGH ON THEIR STORTING WITH SERVICE
	(e)	theres not Visualor Fisical evidence of a crime.
	(f)	
	• •	decision:
	• •	Denied
	(0) 100000	
	(7) Was an	evidentiary hearing held?
	(/) !! @5 @	
b.	(1) Name of	of court:
	(2) Case m	umber:
	(3) Date fi	led (or if mailed, the date the petition was turned over to the prison authorities for mailing):
		ds raised (list each):
	(a)	
	(b)	
	(c)	
	(d)	
	(e)	
	(f)	
	• •	of decision:
	(6) Result	
	(5)	
	(7) Was a	nn evidentiary hearing held? Yes No
c	c. (1) Name	e of court:
	(2) Case	number:
	(3) Date	filed (or if mailed, the date the petition was turned over to the prison authorities for mailing):
		nds raised (list each):
	(4) Glod (a)	
	(b)	
	(υ,	,

(c)				
(d)			
(e)				
(f)				
(5) Date	of decision:			
(6) Resu	ılt			
(7) Was	an evidentiary hearing held? ☐ Yes ☐ No			
For this peti	tion, state every ground on which you claim that you are being held in violation o	f the Const	itution,	
laws, or trea	ties of the United States. Attach additional pages if you have more than five grou	ınds. Sumn	narize	
	acts supporting each ground. For example, if you are claiming ineffective assistan	ace of coun	sel, you	
must state f	acts specifically setting forth what your attorney did or failed to do.	., .,	1 4	
CAUTION	Exhaustion Requirement: In order to proceed in federal court, you must ording your state court remedies with respect to each ground on which you are requested federal court. This means that, prior to seeking relief from the federal court, present all of your grounds to the California Supreme Court.	esting tener	. HOM die	
a. Ground	one: Court Vailated Prisoner Legal Rights by	impos	sing.	
and	endhandsed therm upon sentensing.		م مناليدا	7
(1) Sup	porting FACTS: [Court vailated 6th & 14th Amended	ONSTIT	OTION,	1
<u>Q</u>	rue and unusual Punishment. by imposing a enhance	sed the	a - l	
-	sentensing a crime that Quiaries a maximum a medium of 4 years I a minimum of	7 400	VC	
_	a medium of 4 years a a vicin mom of	- N / CO		
-	Found quitty	Yes	□ No	
(2) Dic	you raise this claim on direct appeal to the California Court of Appeal?		□ No	
	you raise this claim in a Petition for Review to the California Supreme Court?	Yes	□ No	
(4) Did	you raise this claim in a habeas petition to the California Supreme Court?	E 105		
b. Groun	1 two: Improper inefisient asistance of		Counse	il.
(2) Di	oporting FACTS: Improper asistance of Counsel. Attor tell defender hewill get loyears & 2 strikes on a ple the fact is Attorney toll defendant D.A. acepted of that he will hive to the Judge to disoid. Our and possible get hife in Prison if convicted. It you raise this claim on direct appeal to the California Court of Appeal? It you raise this claim in a Petition for Review to the California Supreme Court?	a bargi	ainagre Deal trial	

7.

Page 6 of 16 \square No (4) Did you raise this claim in a habeas petition to the California Supreme Court? c. Ground three: Judge Denaid defendant Request of Reapointment Afther my Attorney Mised 3 court Appointments c . I my Request was Remove From □ No (2) Did you raise this claim on direct appeal to the California Court of Appeal? (3) Did you raise this claim in a Petition for Review to the California Supreme Court? Z Yes □ No **Yes** (4) Did you raise this claim in a habeas petition to the California Supreme Court? □ No d. Ground four: the fact is that aquiusat lied on their (1) Supporting FACTS: the Cact is that a suivax lied the statement 1 1991 1502 U.S.62. Yes □ No (2) Did you raise this claim on direct appeal to the California Court of Appeal? Yes (3) Did you raise this claim in a Petition for Review to the California Supreme Court? \square No Ves. (4) Did you raise this claim in a habeas petition to the California Supreme Court? □ No e. Ground five: At sentensing Tudge bace him self an privius to support his ben a suspecto Not a convic Drivius Casel Kodriavez (1) Supporting FACTS: 935.01.1827:3 Dreiser V. Rodrique 2 ✓ Yes (2) Did you raise this claim on direct appeal to the California Court of Appeal? □ No (3) Did you raise this claim in a Petition for Review to the California Supreme Court? Yes □ No Ves (4) Did you raise this claim in a habeas petition to the California Supreme Court? □ No

Document 1

Filed 06/30/2008

Case 4:08-cv-03830-CW

If any	y of the grounds listed in paragraph 7 were not previously presented to the California Supreme Court, state by which grounds were not presented, and give your reasons:
brief.	y which grounds were not presented, and give your reasons.
Have	you previously filed any habeas petitions in any federal court with respect to this judgment of convictions
□ Y	
If so	, give the following information for each such petition (use additional pages if necessary, and attach copies of the petitions a
	ings on the petitions if available):
	1) Name of court:
	(2) Case number:
	(3) Date filed (or if mailed, the date the petition was turned over to the prison authorities for mailing):
	(4) Grounds raised (list each):
	(a)
	(b)
	(c)
	(d)
	(e)
	(f)
	(5) Date of decision:
	(6) Result
	(7) Was an evidentiary hearing held?
b.	(1) Name of court:
	(2) Case number:
	(3) Date filed (or if mailed, the date the petition was turned over to the prison authorities for mailing):
	(4) Grounds raised (list each):
	(a)
	(b)
	(c)
	(d)
	(e)
	(f)
	(5) Date of decision:
	(3) Date of oecision:

nature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Cesar Rodriquez

Cesax Rodriquez Petitioner		DECLARATION IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS
I, Cesax not quez that in support of my motion to proceed without being required because of my poverty I am unable to pay the costs of said proceed.	ed to prepa	that I am the petitioner in the above entitled case; by fees, costs or give security therefor, I state that or to give security therefor; that I believe I am
entitled to relief.		
 Are you presently employed? ☐ Yes ☐ No 		
a. If the answer is yes, state the amount of your salary employer.		
b. If the answer is no, state the date of last employmen you received.		
2. Have you received, within the past twelve months, any r	noney from	n any of the following sources?
a. Business, profession or form of self-employment?	☐ Yes	☑ Nø
b. Rent payments, interest or dividends?	☐ Yes	No
c. Pensions, annuities or life insurance payments?	☐ Yes	☑ No
d. Gifts or inheritances?	☐ Yes	
e. Any other sources?	☐ Yes	☑ No
If the answer to any of the above is yes, describe each s during the past twelve months:		
during the past twerve monator		
3. Do you own any cash, or do you have money in a check Yes □ No		
If the answer is yes, state the total value of the items ov	vned: #	21500 in miami Federal Detent
If the answer is yes, state the total value of the items over the street mines.	mi Fl.	33132 prisoner Alcount.
Phone # (305) 577-001	_	

4.	Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property? (Excluding ordinary
	household furnishings and clothing) Yes
	If the answer is yes, describe the property and state its approximate value:
5.	List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support: Ramona nunca Mother Raven, cesar. For Childrens At this point nothin because I have incarsed
	I, declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct. Executed on June 73 7008 Date Signature of Petitioner
	CERTIFICATE
	I hereby certify that the Petitioner herein has the sum of \$ on account to his credit
af	the institution where he is
co	onfined. I further certify that Petitioner likewise has the following securities to his credit according to the records of said stitution:
_	Date Authorized Officer of Institution/Title of Officer

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x I cesar Rodolquez F-30844

C.V.S.P AZ-116 UP

BOX 23 49

Blythe CA, 92226

sumit this Federal Abbeaus corpus to this most

hidhest. honorable court seavind temedis Limmediate sepeedier telease from prison bace on -

3 Preiser V. Rodriquez (1973) 411 U.S. 475 [935.ct. 1827; 36 L.Ed. 2d 439]

* Petitioner his challengin this conviction that has ben enhandeed Due to previos discharged convictions.

728 U.S. C. § 2241 (c).

* I addres my ply to this honorable court and its Highest official on this facility honorable. John Salazar

20 federal Rules of habeas corpus, rule 2(a); 28 U.S.C. 8 2254.

* I have completly exausted my Reavest for Relief on:

Appeal # AII4I44

Abeas corpus to california supreme court. # CVO70874 and the petition four Review. but california supreme court denied the reviw. i don't have att for it but i enclosing the Letter my attorney send me on this deniald. Suporting law.

25 28 U.S.C § 2254 (b)(2) and (3).

26 Roman U. Fstelle (9their. 1990) 917 F. 2d 1505; See also

D'sullivan V. Boerckel (1999) 526 U.S. 838[1195.Ct. 1728; 144 L. Ed. 2d 1]

27 See Me Buire V. Estelle (9th eir. 1989) 873 F. 2d 1323, 1325 fn. L.

Page II of I

- BrownCase #1(18-4v-03888-5)/344 Porumenty3 [#Filed 04/38/2008 + [Pege 12 64]6
- * the facte that acuiuser haid on their statements of the D.A make a Recantation of theoriginal statements made on the video tape if a juror would have had this evidence before and this matter would have gone to trial our cross examination they would have not had a conviction.
- 50 <u>La Brand V. 3temard</u> (9th cir. 1998) 133 F. 3d 1253; Schop V. Delo (1999) 513 U.S. 298[115 S.et. 851; 130 L. Ed. 2d 808].
- 91 Jackson V. Virginia (1979) 443 U.S. 307,318-19 [905.Ct. 2781; 61 LEd. 2d 560]
- * the fact. is there & no Visual Fisical evidence court cant
 show ani subtantial injuries to determine any quilthy
 original statements. "cast a Vast Shadow of doubt" and
 original statements. "cast a Vast Shadow of doubt" and
 oviginal statements. "cast a Vast Shadow of doubt" and
 oviginal statements. "cast a Vast Shadow of fer aproof
 oversion the Reality of Proof of quilth. It Rader offer aproof
 of innocence, When there's no evidence to fine Petiliones quilth
 beyond a reasonable Doubt
- 51 Schlup V. Delo (1995) 513 U.S. 298 [115 5. et. 851, 130 L. Ed. 2d 808]; Carriager V. steward (9th cir. 1997) 132.3d463
- 92 <u>United states excel. Sostre V. Festa</u> (9th cir. 1975) 513 F. 2d 1313; united states excel. Rice U. Vincent (2nd cir. 1974) 491 F. 2d 1326.

*

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Up un fairnes claims,

charges not supported by any evidence and being sentence with a therm that vailated congres sentensing quide times on a ofence that aviaries a marimum of 6 year if found quilthy.

The fact that iwas convicted of two counts one count Four abeliedly putin my hand anominor head. Four best than tive seconds.

and the second count four a beliedly putinmy hand on aminor heaps, four best than Five seconds does not support the their imposed at sentensing.

I ask this honorable court to Review this ease make a evidensiary hering Teopen this ease four thial our dismiss those boquest charges due to back of evidence and all my claims that i make on this petition most Tespec fully

cesax Rodriquez. Pet i tioner

Phone: (831) 818-8026 Email: kwnovoa@mac.com

FAX: 831-300-2103

Kathleen Woods Novoa, Attorney at Law

May 20, 2008

Cesar Rodriguez, F 30844 CVSP A2-132 up Box 2349 Blythe, CA 92226

Appeal No. A114144

Dear Mr. Rodriquez:

I am confused by your letter of April 17, 2008, as I indicated back in November of 2007, I am no longer representing you. Your appeal is over. I did file the petition for review, as I indicated I would do, but as expected the California Supreme Court denied review. I have sent you all the information I have about how and where to file a writ of habeas corpus.

I am sorry I could not obtain a better result for you, but challenging a guilty plea is rarely successful. The fact that the parties lied is irrelevant, once you have admitted the truth of the allegations by pleading guilty.

I wish you the best of luck in the future.

Sincerely,

Kathleen Woods Novoa

Attorney at Law

cc: file



UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

312 North Spring Street, Room G-8 Los Angeles, CA 90012 Tel: (213) 894-7984

SOUTHERN DIVISION

411 West Fourth Street, Suite 1053 Santa Ana, CA 92701-4516 (714) 338-4570

EASTERN DIVISION

3470 Twelfth Street, Room 134 Riverside, CA 92501 (951) 328-4450

Monday, June 30, 2008

CESAR RODRIGUEZ, F-30844 CHUCKAWALLA VALLEY STATE PRISON, A2-116 UP P.O. BOX 2349 BLYTHE, CA 92226

Dear Sir/Madam:
A $\overline{\mathrm{X}}$ Petition for Writ of Habeas Corpus was filed today on your behalf and assigned civil case number CV08- 4325 R (RNB)
A Motion pursuant to Title 28, United States Code, Section 2255, was filed today in criminal case number and also assigned the civil case number
Please refer to these case numbers in all future communications.
Please Address all correspondence to the attention of the Courtroom Deputy for: District Court Judge
X Magistrate Judge Robert N. Block
at the following address:
U.S. District Court 312 N. Spring Street Civil Section, Room G-8 Los Angeles, CA 90012 Building and U.S. Courthouse 411 West Fourth St., Suite 1053 Santa Ana, CA 92701-4516 Riverside, CA 92501 (714) 338-4750
The Court must be notified within fifteen (15) days of any address change. If mail directed to your address of record is returned undelivered by the Post Office, and if the Court and opposing counsel are not notified in writing within fifteen (15) days thereafter of your current address, the Court may dismiss the case with or without prejudice for want of prosecution.
Very truly yours,
Clerk, U.S. District Court
By:
Deputy Clerk



UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA WESTERN DIVISION

312 North Spring Street, Room G-8 Los Angeles, CA 90012 Tel: (213) 894-3535

SOUTHERN DIVISION

411 West Fourth Street, Suite 1053 Santa Ana, CA 92701-4516 (714) 338-4570

EASTERN DIVISION

3470 Twelfth Street, Room 134 Riverside, CA 92501 (951) 328-4450

District Court Executive and Clerk of Court

Monday, June 30, 2008

CESAR RODRIGUEZ, F-30844 CHUCKAWALLA VALLEY STATE PRISON, A2-116 UP P.O. BOX 2349 BLYTHE, CA 92226

Dear	Sir/Madam:
Your	petition has been filed and assigned civil case number CV08- 4325 R (RNB)
Upon	the submission of your petition, it was noted that the following discrepencies exist:
	You did not pay the appropriate filing fee of \$5.00. Submit a cashier's check, certified bank check, business or corporate check, government issued check, or money order drawn on a major American bank or the United States Postal Service payable to 'Clerk U.S. District Court'. If you are unable to pay the entire filing fee at this time, you must sign and complete this court's Prisoner's Declaration In Support of Request to Proceed In Forma Pauperis in its entirety. The Clerk's Office will also accept credit cards (Mastercard, Visa, Discover, American Express) for filing fees and miscellaneous fees. Credit card payments may be made at all payment windows where receipts are issued. The Declaration in Support of Request to Proceed in Forma Pauperis is insufficient because:
	a) You did not sign your Declaration in Support of Request to Proceed in Forma Pauperis.
X	(b) Your Declaration in Support of Request to Proceed in Forma Pauperis was not completed in its entirety.
X	(c) You did not submit a Certificate of Prisoner's Funds completed and signed by an authorized officer at the prison.
	(d) You did not use the correct form. You must submit this court's current Declaration in Support of Request to Proceed in Forma Pauperis.
	(e) Other:
Encl For	losed you will find this court's current Prisoner's Declaration in Support of Request to Proceed in na Pauperis, which includes a Certificate of Funds in Prisoner's Account Form.
	Sincerely,
	Clerk, U.S. District Court
	AMARTINE
	Ву:
	Deputy Clerk